



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,420	09/16/2003	Ryuichi Iwamura	50T5576.02	2709
36738	7590	05/22/2007		
ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92101			EXAMINER PHILIPPE, GIMS S	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 05/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/663,420	IWAMURA ET AL.	
	Examiner	Art Unit	
	Gims S. Philippe	2621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-10, 12-16, 18-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12-16, 18-20, 22-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

1. Applicant's amendment received on March 16 2007 in which claims 1, 6-10, 12-16, 18, 20, and 22 were amended, and claims 4-5, 11, 17, and 21 were canceled, has been fully considered and entered, however, the arguments are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-3, 6-10, 12-16, 18-20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moroney et al. (US Patent no. 5,949,795) in view of Subrahmanyam et al. (US Patent no. 7212599).

Regarding claims 1, 10, 16 and 20, Moroney discloses the same method, multimedia receiver, and system comprising a receive data buffer (See Moroney fig. 1, items 100 and 105, col. 5, lines 7-10), and a decoder assembly receiving data from the buffer for decoding thereof (See Moroney col. 5, lines 11-18, lines 55-58), the decoder assembly

including a clock, a rate of the clock being established at least in part (See Moroney col. 5, 28-36, lines 58-67, and col. 6, lines 1-4).

It is noted that although Moroney provides a minimum average character interval of a bit time (See Moroney col. 6, lines 36-39), it is silent about establishing at least in part on a time-average buffer occupancy level as specified in the claims.

However, Subrahmanyam discloses a multimedia receiver, and system comprising a receive data buffer including the step of establishing at least in part on a time-average buffer occupancy level (See Subrahmanyam col. 5, lines 1-10).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Moroneys' receiver data buffer by incorporating Subrahmanyam' step of establishing at least in part on a time-average buffer occupancy level. The motivation for performing such a modification in Moroney is to provide output control word that is indicative of the storage level signal as taught by Subrahmanyam (See Subrahmanyam col. 5, lines 1-3).

As per claim 2, Moroney further discloses a non-isosynchronous network conveying multimedia to a receiver embodying the buffer and decoder assembly (See Moroney col. 3, lines 34-45).

As per claims 3, Moroney further formats the data in MPEG (See Moroney col. 3, lines 45-61).

Art Unit: 2621

As per claims 6-9, 12-15, 18-19, and 22-23 most of the limitations of these claims have been noted in the above rejections of claims 1-3. In addition, Moroney further provides the same system wherein the buffer level occupancy is established in part at least based instantaneous buffer occupancy levels, and wherein the rate decreases in response to a determination that the buffer occupancy is relatively low and wherein the rate is increased in response to a determination that the buffer occupancy level is relatively high (See Moroney col. 6, lines 32-67, col. 7, lines 1-34 and col. 8, lines 37-54).

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2621

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri Mehrdad can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gims S Philippe  
Primary Examiner  
Art Unit 2621

GSP

May 17, 2007